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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/509,058 | 03/07/2005 | Hartmut Albrodt | R-41000 | 1926 |
| 2119 7590 07/28/2008 RONALD E. GREIGG GREIGG & GREIGG P.L.L.C. 1423 POWHATAN STREET, UNIT ONE ALEXANDRIA, VA 22314 | | | | |
| EXAMINER | | | | |
| MERKLING, MATTHEW J | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1795 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/509,058

Applicant(s)

ALBRODT ET AL.

Examiner

MATTHEW J. MERKLING

Art Unit

1795

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 21-40.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795

/M. J. M./
Examiner, Art Unit 1795

Continuation of 3. NOTE: The newly added limitation regarding the control structure between the metering pump and the evaporating device changes the scope of the invention which requires further consideration and a new search.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's argument that the finality of the previous rejection was improper has been considered but is not persuasive. On page 7, Applicant argues that the new ground of rejection of claims 25 and 26 were not necessitated by amendment. The examiner respectfully disagrees with this argument. In the non-final action (mailed 11/16/07), the examiner rejected claims 24-26 as being indefinite regarding the pumps being claimed. In other words, it was not clearly set forth which pumps were electric. In the independent claim 21, Applicant claimed at least one pump, then, in claim 24, Applicant claims 2 pumps, a first and second pump. From these limitations alone, the limitations of each pump are not clearly set forth, as it has not been set forth which pumps are in what service. As amended (in the amended claims submitted 3/13/08), Applicant more clearly set forth which pumps are in what service and further claimed the limitations of each of these pumps. As such, the scope of claims 25 and 26 were changed, along with parent claims 21 and 24 (both of which were amended to modify the limitations of the pumps in service). As such, it is the examiners position that Applicant's amendments to overcome the rejection based on 112 2nd paragraph did indeed change the scope of the claims with respect to the claimed pumps.

On page 9, Applicant argues that Ruoff does not disclose a metering pump whose rpm is regulated by means of the control unit. The examiner respectfully disagrees with this argument. As indicated in Fig. 3, Ruoff explicitly discloses a communication between the pumps (29 and 30) and the controller (32) and further teaches pumps with controllable rpms (see col. 5 line 61- col. 6 line 5 and col. 6 line 24-27). On page 10, as best understood, Applicant is arguing that the control scheme of Ruoff is different than the instant invention by stating that Ruoff teaches a control valve as a necessary element to control the flow rate. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the exclusion of any other control elements other than a metering pump) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

On page 11, Applicant also argues that the 'metering pump' of Ruoff is in fact, not a metering pump because it does not 'precisely' meter the fuel. The examiner respectfully disagrees with this argument. The examiner interprets the claims "metering" as encompassing the service that the pump of Ruoff exhibits.

It is also noted that while the suggested amendments appear to overcome the prior art of record as presently applied, further consideration is required to address the newly added limitations.